

REMARKS

By the foregoing Amendment, Claims 1-3 have been amended, and Claim 6 has been cancelled. Claim 2 has been amended for consistency with amendments to Claim 1. Favorable reconsideration of the application is respectfully requested.

Claim 6 directed to a method was withdrawn as directed to a non-elected invention, on the grounds that the invention of Claim 6 was not elected by original presentation, since the application originally filed only set forth claims directed to an apparatus, not a method. In the prior Office Action, as to Claim 4, the Examiner specifically required Applicant to clarify to what the claim was intended to be drawn, which recited the method step of the first and second chambers being alternately connected to a pressurized air source. In response to this rejection of Claim 4, Claim 4 was cancelled and recast in independent form as a method in Claim 6. In view of the Examiner's finding that method Claim 6 is directed to an invention that is independent or distinct from the invention originally claimed, Applicant reserves the right to file a divisional application directed to the subject matter of method Claim 6, which has now been cancelled.

Claims 1-3 were rejected under 35 U.S.C. 102(b) on the grounds of anticipation by Berthon-Jones. Claim 1 recites "said second inflatable chamber capable of being inflated separately from said first chamber." The Examiner indicated that Berthon-Jones discloses a second chamber (46) capable of being inflated separately from the first chamber (44), referring to Berthon-Jones at column 7, lines 1-23. At column 7, lines 4-6,

Berthon-Jones describes "interconnecting tube(s) 62, thus providing the pressure equalization between the respective nasal chamber 52 and mouth chamber 54."

Interconnecting tube 62 is shown in the figures 2, 4a and 6 as a single duct interconnecting the chamber 46 with the inlet and the other chamber 44, and as two ducts interconnecting the chamber 46 with the inlet and the other chamber 44 in Fig. 5.

Berthon-Jones discloses that the interconnecting tube(s) can be replaced by an L-shaped duct 64, similar to ducts 57 and 59, all of which are disclosed and depicted as interconnecting the inlet, nasal chamber and mouth chamber, which thus also provide pressure equalization between the inlet, nasal chamber and mouth chamber. It is therefore respectfully submitted that Berthon-Jones does not teach, disclose or suggest a second chamber capable of being inflated separately from a first chamber.

Claim 1 further recites "said first and second inflatable chambers being alternately inflated and deflated sequentially independently of ventilation provided by the ventilation apparatus." The specification for the present invention discloses that the chambers of the sealing element are alternately inflated and deflated sequentially independently of ventilation provided by the ventilation apparatus at page 2, lines 6-9; page 3, lines 20-22; and page 4, lines 10-18; for example. This feature allows a seal to be provided for the mask, while at the same time ensuring that the region where pressure is applied to the skin of the patient changes continuously, so as to avoid interruption or hindrance of blood flow, and consequent occurrence of pain and dangerous sores which occur when a mask applies a constant pressure to a region of the patient's skin, as is discussed in the specification at page 1, lines 7-13 and 26-30; page 2, lines 1-5; and page

3, lines 25-30, for example. Since in Berthon-Jones the inlet, nasal chamber and mouth chamber are all interconnected to equalize pressure, it is respectfully submitted that there is no teaching, disclosure or suggestion in Berthon-Jones that the nasal and mouth chambers of Berthon-Jones are sequentially alternatingly inflated and deflated, independently of ventilation provided by the ventilation apparatus, so that Claim 1 is novel and inventive over Berthon-Jones.

Claim 3 was rejected under 35 U.S.C. 102(b) on the grounds of anticipation by Berthon-Jones, cited as disclosing a first and second chamber lying side by side. Claim 3 has now been amended to recite "said first and second inflatable chambers lie concentrically side by side." Berthon-Jones discloses a nasal chamber and a separate mouth chamber that are not concentric, so that it is respectfully submitted that Claim 3 is also novel and inventive over Berthon-Jones.

It is therefore respectfully submitted that Claims 1-3 are novel and inventive over Berthon-Jones, and the rejection on the grounds of anticipation by Berthon-Jones should be withdrawn.

In light of the foregoing amendments and remarks, it is respectfully submitted that the application is now be in condition for allowance, and an early favorable action in this regard is respectfully requested.

Respectfully submitted,

FULWIDER PATTON LEE & UTECHT, LLP

By: 

James W. Paul
Reg. No. 29,967

JWP/rvw

Encls.: Return Postcard

Howard Hughes Center
6060 Center Drive, Tenth Floor
Los Angeles, CA 90045
Telephone: (310) 824-5555
Facsimile: (310) 824-9696
Customer No. 24201
55313.1